

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
FRANK GILLIARD 14-A-5535 No 4488692-K

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2015 APR 20 A 9:15

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

**AMENDED
COMPLAINT**

under the Civil Rights Act,
42 U.S.C. § 1983

THE CITY OF NEW YORK

AND

OFFICER JUSTIN PARRIS AT THE 40th PRECINCT

LOCATED AT 257 ALEXANDER AVENUE DURING
THE 03:00 pm to 11:00 pm SHIFT AND

OFFICER EDGARDO CLASSES AT THE 40th PRE-
CINCT LOCATED AT 257 ALEXANDER AVENUE DUR-
ING THE 03:00 pm to 11:00 pm SHIFT.

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

Jury Trial: ☐ Yes ☐ No
(check one)

14 Civ. 4729 (JPO)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 4/16/2015

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff's Name FRANK GILLIARD
ID# 14-A-5535 No 4488692-K
Current Institution COXSACKIE
Address COXSACKIE CORRECTIONAL FACILITY
P.O. BOX-999 COXSACKIE NEW YORK 12051-0999

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name THE CITY OF NEW YORK Shield # _____
Where Currently Employed _____
Address _____

Defendant No. 2

Name OFFICER JUSTIN PARRIS Shield # 22965
 Where Currently Employed 40th PRECINCT LOCATED AT
 Address 257 ALEXANDER AVENUE DURING THE 03;00
to 11;00 SHIFT.pm

Defendant No. 3

Name OFFICER EDGARDO CLASSES Shield # 17447
 Where Currently Employed 40th PRECINCT LOCATED AT
 Address 257 ALEXANDER AVENUE DURING THE 03;00
to 11;00 SHIFT.pm

Who did
what?

Defendant No. 4

Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5

Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur?
On 138 Street and Willis Avenue located in the area
of the 40th Precinct.
- B. Where in the institution did the events giving rise to your claim(s) occur?
40th Precinct located at 257 Alexander Avenue.
- C. What date and approximate time did the events giving rise to your claim(s) occur?
On October 26, 2011 at 10;00 pm on Willis Avenue

- D. Facts: I was going home to 225 and Willis Avenue and was stop-
ped by two uniform officers at the corner of 138 street and
one of the officer ask me can he have a word whit me and I
said yes and that when OFFICER JUSTIN PARRIS SHIELD NUMBER

What
happened
to you?

is 22965 came around the corner said to his partner EDGARDO put the handcuffs on him and placed him in custody. They took me to the 40th Precinct while I was there I was Arrested Stripped Searched finger printed photographed. I was never put in a line-up never made a phone call to my Legal Attorney so my right was Violated of my due process. And I was charged for a Robbery 2 DQO P.L.160.10(2) Robbery 2 DQO P.L.160.10(3) Robbery 3 DQO P.L.160.05(4) Grand Larceny 4 DQO P.L.155.30(5) Assault 3 DQO P.L.120.00 Petit Larceny 5 DQO P.L.155.25(6) Criminal Possession of Stolen Property 5 DQO P.L.165.40(8) Harassment 2 P.L. 24026(1).

Was
anyone
else
involved?

Who else
saw what
happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

I claim for Physical emotional mental and Psychological Pain and Suffering embarrassment and humiliation sustained by claimant as a result of intentional, reckless and/or negligent conduct by agents, servants and employees of the City of New York. The claimant was falsely arrested and imprisoned and subjected to illegal search and seizure, malicious prosecution violations of his right to due process, retaliation for protected First Amendment activity, and his civil rights were violated U.S. Const. Amend. I, IV & XIV, N.Y. Const Art. 1, & 12.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes _____ No **XX** _____

My position is that pursuant to Civil Right's Law section 79-c any injury to my person or effects is punishable in same manner if I was not so confined.

Unlawful confinement is a specie of False imprisonment and unlawful imprisonment, and wrongful confinement.

The damages I sustained both at Attica Correctional Facility and Southport for the wrongful confinement.

Compensatory damages is sought for wrongful confinement and the priviledges lost as a result.

I rely upon Sanabria v. State, 29 Misc3d 527 (2010), for 91 days of wrongful imprisonment, and Sanabria received \$20,000.00 in Past Noneconomic Damages. in DePaula v. State, 82 A.D.3d 827 (2d Dept. 2011) a damage award of \$250.00 where confinement was for no more than 20 minutes of wrongful confinement. In Jian Ren Chen v. City of New York, 18 Misc3d 161 (Sup 2007) nominal damages of \$400.00 (3 hours wrongful confinement. Martin v. City of Albany, 51 A.D.2d 596 (3d Dept. 1976) 1 day confinement \$5,000.00 On the Federal level, in Taylor v. Clement, 433 F.Supp. 588 (S.D.N.Y. 1977), \$25.00 per day was not considered excessive, taking into consideration that of inflation.

Because this issue occurred at to separate Correctional Facility Attica (initially). Southport, (subsequently) which is a secured housing unit where personal property, programs, visits, commissary, packages, etc. are extremely limited or not at all.

As a result of the above cases, I am willing to reduce, by this amount of \$50.00 per day at a total of 8,050.00 and settle at \$35.00 per day at a total of 5,635.00 plus \$30.00 for the Court filing fee.

Should you desire to dispute the amount of the proposed settle.

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ____ No ____ Do Not Know ____

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ____ No ____ Do Not Know ____

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ____ No ____

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ____ No ____

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

1. Which claim(s) in this complaint did you grieve?

2. What was the result, if any?

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Not a Grievance issue.

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any:

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). Pain and Suffering Mehtal anguish
Loss of Social Security income. Slander and Defamation of my
name and Because of the time I spent in Prison for a Crime I
did not cammit for(17 Months) for the Pain and Suffering me and
my Family had to handed so I asked the Court A justified Comp-
ensation for the amount of \$2.500.000.00 Mill) Because I get a
Qcquitted by a Jury on March 21,2013.

On
these
claims

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ____ No xx

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ____ No xx

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____
If NO, give the approximate date of disposition _____
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

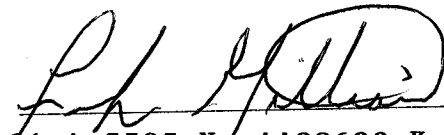
I declare under penalty of perjury that the foregoing is true and correct.

Signed this 9 day of April, 20 15

Signature of Plaintiff

Inmate Number

Institution Address



14-A-5535 No 4488692-K

COXSACKIE CORR FACILITY

P.O. BOX-999

COXSACKIE NEW YORK 12051

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 9 day of April, 2015, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

